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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,436	07/07/2003	Roy Higgs		2612

7590
J. John Shimazaki
P.O. Box 650741
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08/08/2006

EXAMINER

FAULK, DEVONA E

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,436	Applicant(s) HIGGS, ROY	
	Examiner Devona E. Faulk	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/11/2006 have been fully considered but they are not persuasive.
2. The applicant has cancelled all claims addressed in the previous office action and added new claims 41-60. The applicant asserts that prior art Higgs discloses a tent on top of the parking garage and the tent is not an extension of the parking garage. The examiner disagrees and asserts that the specification only states that "the top floor 11 of the parking garage 1 of this embodiment is preferably rectangular in shape, with the projector housing or building 25 extending along one end thereof". So the second building extending along the top of the parking garage does not equate to "an extension of ". Furthermore Higgs does not disclose the screen extending from the second building. The examiner has read the second building as the tent area opposite the screen where the movie is being projected from and so Higgs reads on this feature.
3. The applicant also asserts that Higgs does not show "said screen and said first and second buildings, form a substantial visual barrier extending around three sides of the said top parking level, to substantially block the view of the screen from the outside". The specification discloses on page 9, lines 10-20, that the wall, orientation of the screen and projection housing helps to block others in adjacent areas such as along the main street below from being able to see the movie and blocking view from adjacent areas around the mall but fails to disclose that the barrier formed extends around three sides of the top of the parking level. The examiner asserts that Higgs teaches this

feature, the first building being the shopping center or mall, the second building being the tent area from which the movie is being projected from and the screen obviously form a barrier that would have a block view for those on the main street. By mere fact that these elements cannot be seen through imply that they form a barrier.

4. Claims 1-40 are cancelled.

5. The applicant acknowledged the drawing objection set forth in the previous office action and has indicated that he is waiting until the claims are indicated as allowable to submit formal drawings to the office.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 41, 47 and 51** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 41, 47 and 51 recite "said screen and said first and second buildings, form a substantial visual barrier extending around three sides of the said top parking level, to substantially block the view of the screen from the outside". The specification discloses on page 9, lines 10-20, that the wall, orientation of the screen and projection housing helps to block others in adjacent areas such as along the main street below from being able to see the movie and blocking view from adjacent areas around the mall but fails to disclose that the barrier formed extends around three sides of the top of the parking level.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 41-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code) in view of Herzfeld et al. (US 3,131,381) .

Regarding **claim 41**, Higgs discloses a shopping mall comprising:

a shopping mall (Menlyn park shopping center, page 1 of article) comprising:

a retail shopping complex comprising at least a first building having a roof extending upward to at least a first elevation (page 1 of article, Figure 6);

at least one multi-level parking garage connected to said shopping mall, wherein said parking garage has a top parking level extended to a second elevation, wherein said first elevation is higher than said second elevation (page 1 of article disclose a mall with at least 3 levels and a parking garage accessible directly from each level of the mall, Figure 6);

a second building for housing a projector substantially constructed as an extension of said parking garage adjacent said top parking level, wherein said second

building is located at a first end of said parking garage, and extends to a third elevation (Figure 6, the tent area reads on building housing a projector);

a screen extending upward from said parking garage, wherein said screen is located on a second end of said parking garage, opposite, opposite said first end, wherein said screen extends upward from said second end of said parking garage to a fourth elevation (Figure 6 discloses a screen as claimed);

wherein said first, third and fourth elevations are extended substantially above said second elevation, such that said screen, and said first and second buildings, form a substantial visual barrier extending around three sides of said parking garage, to substantially block the view of the screen from outside (Figure 6 ; Higgs teaches the first building (shopping center or mall), the second building (tent area from which the movie is being projected from) and the screen. They obviously form a barrier, each at least from their respective sides that would have a block view for those on the main street. By mere fact that these elements cannot be seen through imply that they form a barrier.

Higgs discloses a sound system (page 3 or article).

Higgs fails to explicitly disclose a short range radio sound system with at least one transmitter provided on said parking garage, to provide sound for vehicles parked on said top parking level, wherein said system is used in connection with a drive in movie theater located on said parking garage, and wherein said short range radio sound system is adapted so that only cars located on or substantially near said top parking level of said parking garage are able to receive transmissions from said at least one transmitter.

Herzfeld discloses a short-range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1) including a control means (variable inductance coil; Figures 1 and 5; column 3, lines 3-28) that controls the frequency adjustment of transmitters. Herzfeld discloses additionally that the sound system comprises multiple on or above ground transmitter intermittently located on the top floor for sending broadcast signals through the air and broadcasting the sound using an FM transmission (Figure 2). Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28) . It would have been obvious to modify Higgs by using the sound system of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

Higgs teaches of a second parking garage and of an events center (page 3, column 2; Figure 5 (see outlined area); events center is the Roman Amphitheatre-styled arena and a corresponding garage, Figures 5 and 7).

Higgs further depicts the events center is on top of the second parking garage (Figure 5 and 7).

It would have been obvious to have the events center was on top of a second garage in order to provide a mega-type complex that can accommodate a theater, a convention center, a shopping mall, parking garages, hotels and restaurants, etc. within one location.

Regarding **claim 42**, Higgs as modified by Herzfeld discloses wherein said parking garage and said first building are separate structure and at least one bridge

connects said parking garage with said first building. All elements of claim 42 are comprehended by the rejection of claim 41 (see Higgs as applied above).

Regarding **claim 43**, Higgs as modified by Herzfeld and Simens discloses wherein a restaurant and/or other establishment is provided in said second building, and/or in said shopping mall in associated with said events center, in a manner such that persons in said restaurant and or other establishment can view said screen and/or events occurring at said events center. (page 2, under Re-merchandising section) and further discloses a Roman amphitheatre styled events center including stadium seating (Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2).

Regarding **claim 44**, Higgs as modified by Herzfeld discloses wherein said short range radio sound system comprises multiple transmitters intermittently located on said top parking level, for sending broadcast signals through the air, wherein each transmitter has an effective service range that is capable of reaching more than a single car, but does not exceed the maximum allowed distance for unlicensed use. Herzfeld further teaches that various transmitter units are set to transmit at different frequencies (column 3, lines 3-28).

Regarding **claim 45**, Higgs as modified by Herzfeld discloses wherein a control mechanism for controlling, adjusting the frequencies of the signals transmitted by said transmitters is provided, wherein said control mechanism is adapted to adjust transmitters to different frequencies, to ensure that any one transmitter does not exceed the maximum transmission distance allowed for unlicensed use. Herzfeld further

teaches of a control mechanism for controlling, adjusting and setting the frequencies of the signals transmitted by said transmitters (column 3, lines 3-28).

Regarding **claim 46**, Higgs as modified by Herzfeld discloses wherein said top parking level of said parking garage is divided into a plurality of areas wherein each area has at least one transmitter. All elements of claim 46 are comprehended by the rejection of claim 41; see Higgs and Herzfeld as applied to claim 41).

10. **Claim 47-49,51-53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code).

Regarding **claim 47**, Higgs discloses a shopping mall comprising:

- a shopping mall (Menlyn park shopping center, page 1 of article) comprising:
 - a retail shopping complex comprising at least a first building having a roof extending upward to at least a first elevation (page 1 of article, Figure 6);

- at least one multi-level parking garage connected to said shopping mall, wherein said parking garage has a top parking level extended to a second elevation, wherein said first elevation is higher than said second elevation (page 1 of article disclose a mall with at least 3 levels and a parking garage accessible directly from each level of the mall, Figure 6);

- a second building for housing a projector substantially constructed as an extension of said parking garage adjacent said top parking level, wherein said second building is located at a first end of said parking garage, and extends to a third elevation (Figure 6, the tent area reads on building housing a projector);

a screen extending upward from said parking garage, wherein said screen is located on a second end of said parking garage, opposite, opposite said first end, wherein said screen extends upward from said second end of said parking garage to a fourth elevation (Figure 6 discloses a screen as claimed);

wherein said first, third and fourth elevations are extended substantially above said second elevation, such that said screen, and said first and second buildings, form a substantial visual barrier extending around three sides of said parking garage, to substantially block the view of the screen from outside (Figure 6 ; Higgs teaches the first building (shopping center or mall), the second building (tent area from which the movie is being projected from) and the screen. They obviously form a barrier, each at least from their respective sides that would have a block view for those on the main street. By mere fact that these elements cannot be seen through imply that they form a barrier.

Higgs as modified teaches of a second parking garage and of an events center (page 3, column 2;Figure 5 (see outlined area); events center is the Roman Amphitheatre-styled arena and a corresponding garage, Figures 5 and 7).

Higgs as modified further depicts the events center is on top of the second parking garage (Figure 5 and 7).

It would have been obvious to have the events center was on top of a second garage in order to provide a mega-type complex that can accommodate a theater, a convention center, a shopping mall, parking garages, hotels and restaurants, etc. within one location.

Regarding **claim 48**, Higgs discloses wherein said parking garage and said first building are separate structure and at least one bridge connects said parking garage with said first building. All elements of claim 42 are comprehended by the rejection of claim 41 (see Higgs as applied above).

Regarding **claim 49**, Higgs discloses wherein a restaurant and/or other establishment is provided in said second building, and/or in said shopping mall in associated with said events center, in a manner such that persons in said restaurant and or other establishment can view said screen and/or events occurring at said events center. (page 2, under Re-merchandising section) and further discloses a Roman amphitheatre styled events center including stadium seating (Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2).

Regarding **claim 51**, Higgs discloses a shopping mall comprising:
a shopping mall (Menlyn park shopping center, page 1 of article) comprising:
a retail shopping complex comprising at least a first building having a roof extending upward to at least a first elevation (page 1 of article, Figure 6);
at least one multi-level parking garage connected to said shopping mall, wherein said parking garage has a top parking level extended to a second elevation, wherein said first elevation is higher than said second elevation (page 1 of article disclose a mall with at least 3 levels and a parking garage accessible directly from each level of the mall, Figure 6);

a second building for housing a projector substantially constructed as an extension of said parking garage adjacent said top parking level, wherein said second

building is located at a first end of said parking garage, and extends to a third elevation (Figure 6, the tent area reads on building housing a projector);

a screen extending upward from said parking garage, wherein said screen is located on a second end of said parking garage, opposite, opposite said first end, wherein said screen extends upward from said second end of said parking garage to a fourth elevation (Figure 6 discloses a screen as claimed);

wherein said first, third and fourth elevations are extended substantially above said second elevation, such that said screen, and said first and second buildings, form a substantial visual barrier extending around three sides of said parking garage, to substantially block the view of the screen from outside (Figure 6 ; Higgs teaches the first building (shopping center or mall), the second building (tent area from which the movie is being projected from) and the screen. They obviously form a barrier, each at least from their respective sides that would have a block view for those on the main street. By mere fact that these elements cannot be seen through imply that they form a barrier.

Regarding **claim 52**, Higgs discloses wherein said parking garage and said first building are separate structure and at least one bridge connects said parking garage with said first building. All elements of claim 42 are comprehended by the rejection of claim 41 (see Higgs as applied above).

Regarding **claim 53**, Higgs discloses wherein a restaurant and/or other establishment is provided in said second building, and/or in said shopping mall in associated with said events center, in a manner such that persons in said restaurant and or other establishment can view said screen and/or events occurring at said events

center. (page 2, under Re-merchandising section) and further discloses a Roman amphitheatre styled events center including stadium seating (Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2).

11. **Claim 55-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code) as applied to claim 51 above and Herzfeld et al. (US 3,131,381).

Regarding **claim 55**, Higgs discloses a sound system (page 3 of article).

Higgs fails to explicitly disclose a short range radio sound system with at least on transmitter provided on said parking garage, to provide sound for vehicles parked on said top parking level, wherein said system is adapted for use in connection with a drive in movie theater located on said parking garage, and wherein said short range radio sound system is adapted so that only cars located on or substantially near said top parking level of said parking garage are able to receive transmissions from said transmitters.

Herzfeld discloses a short-range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1) including a control means (variable inductance coil; Figures 1 and 5; column 3, lines 3-28) that controls the frequency adjustment of transmitters. Herzfeld discloses additionally that the sound system comprises multiple on or above ground transmitter intermittently located on the top floor for sending broadcast signals through the air and broadcasting the sound using an FM

transmission (Figure 2). Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28) . It would have been obvious to modify Higgs by using the sound system of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

Regarding **claim 56**, Higgs as modified by Herzfeld discloses wherein said short range radio sound system enables movie-goers on said top parking level to listen to movies on pre-selected channels in their own cars, and wherein said sound system comprises multiple transmitters intermittently located on said top parking level, for sending broadcast signals through the air.

Regarding **claim 57**, Higgs as modified by Herzfeld disclose wherein each transmitter has an effective service range that is capable of reaching more than a single car, but does not exceed maximum allowed distance for unlicensed use. Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28).

Regarding **claim 58**, Higgs as modified by Herzfeld discloses wherein a control mechanism for controlling, adjusting the frequencies of the signals transmitted by said transmitters is provided, wherein said control mechanism is adapted to adjust transmitters at different location to different frequencies, to ensure that any one transmission by any one transmitter does not exceed the maximum transmission distance allowed for unlicensed use. Herzfeld further teaches of a control mechanism for controlling, adjusting and setting the frequencies of the signals transmitted by said transmitters (column 3, lines 3-28).

Regarding **claim 59**, Higgs as modified by Herzfeld discloses wherein said top parking level of said parking garage is divided into a plurality of areas, wherein each area has at least one transmitter capable of operating at a different frequency.

Regarding **claim 60**, Higgs as modified by Herzfeld discloses wherein said screen extends upward from a peripheral edge of said parking garage. All elements of claim 60 are comprehended by the rejection of claim 51 (see Higgs as applied above).

12. **Claims 50 and 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) as applied above to claims 47 and 49 (August 2000, see pg. 14 of source code) in view of Simens (US 6,832,452) as applied above to claims 47 and 49 and Allen (U.S. Patent 3,422,581).

Regarding **claim 50**, Higgs as modified by Simens fails to disclose multiple inclined spaces on which cars can be parked for viewing said screen. However, this concept was well known in the art as taught by Allen. Allen discloses a drive-in theater having multiple inclined spaces (Figure 4; column 2, lines 40-55). Thus it would have been obvious to modify Higgs as modified by providing inclined parking spaces in order to provide unimpeded line-of-sight for each vehicle.

Regarding **claim 54**, Higgs fails to disclose multiple inclined spaces on which cars can be parked for viewing said screen. However, this concept was well known in the art as taught by Allen. Allen discloses a drive-in theater having multiple inclined spaces (Figure 4; column 2, lines 40-55). Thus it would have been obvious to modify

Higgs as modified by providing inclined parking spaces in order to provide unimpeded line-of-sight for each vehicle.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEF


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